

# **EXHIBIT 11**

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

RICHARD ROSARIO,

Plaintiff,

-against-

THE CITY OF NEW YORK, *et al.*,

Defendants.

18-cv-4023 (LGS)

**DECLARATION OF MARY KATHERINE McCARTHY**

I, MARY KATHERINE McCARTHY, an attorney admitted to practice in the State of New York and the Southern District of New York, submit this declaration under penalty of perjury:

1. I am an associate at the firm Neufeld Scheck & Brustin, LLP, (“NSB”) with offices at 99 Hudson Street, 8th Floor, New York, New York 10013.
2. I make this declaration in support of an application for attorneys’ fees pursuant to 42 U.S.C. § 1988, covering the hours I expended on this matter. I am fully familiar with the facts discussed herein.

**EDUCATION AND EXPERIENCE**

3. I graduated *magna cum laude* from Harvard Law School in 2015. While in law school, I served as an Executive Editor for the *Harvard Law Review* and was a Finalist and Oralist in the Ames Moot Court Competition. During law school, I did clinics or internships with Harvard Defenders, the Harvard Prison Legal Assistance Project, the Harvard Immigration and Refugee Clinic, the Criminal Justice Institute, the Capital Appeals Project, and the Public Defender Service for the District of Columbia. After my graduation, I clerked for the Honorable Janice Rogers Brown of the Court of Appeals for the District of Columbia. In the fall of 2016, I clerked for the Honorable Jesse Furman in

the Southern District of New York. In October 2017, I joined NSB as a law clerk. I became an associate at NSB in October 2019. My resume is attached as Exhibit A.

4. At NSB, I work almost exclusively on 42 U.S.C. § 1983 civil rights litigation in federal courts around the country. My practice focuses on wrongful conviction cases such as Richard Rosario's, involving lawsuits against police, prosecutors and/or state and municipal crime lab employees for unconstitutional misconduct. This body of law, arising at the intersection of criminal procedure and civil rights, is relatively new and constantly evolving. To my knowledge, NSB is the only firm in the nation litigating these issues full time.
5. Generally, all these cases involve procedural defenses such as absolute and qualified immunity and require a nuanced understanding of the differences between what it takes to vacate a criminal conviction and the elements of civil liability. In addition, the cases typically involve the same sets of claims, including for fabrication of evidence, *Brady*, and malicious prosecution, and involve similarly flawed inculpatory evidence, including misidentifications caused by suggestive identification procedures. My focus on these issues at NSB, as well as access to NSB's collective knowledge derived from litigating these cases for over twenty years, made my work on this case much more efficient than it otherwise would have been.
6. On behalf of Plaintiff, I am seeking compensation for my work at a rate of \$425 an hour. In my opinion, this requested rate is reasonable in light of the relevant market and my experience and skill.

#### **WORK IN THIS CASE**

7. I am seeking compensation, on behalf of Plaintiff, for the time I spent on this matter in March 2021.
8. Over the years of this litigation, my main responsibility in this case was drafting, revising, reviewing, and finalizing the opposition to Defendants' *Daubert* motion to exclude Jennifer Dysart's testimony in this case.

9. As set forth in the billing records attached as Exhibit B, which come from contemporaneously kept timekeeping logs, I am seeking compensation for a total of 18.4 attorney hours in this matter.
10. I have reviewed the attached billing record in its entirety, and made an effort to take a conservative and reasonable approach to the total hours for which I seek compensation. In my judgment, each hour set forth in Exhibit B was necessitated by the circumstances and reasonably expended in pursuit of the ultimate favorable outcome in this complicated and important civil rights case.
11. I hereby declare under penalty of perjury that the foregoing is true.

Date: October 3, 2022

New York, NY



MARY KATHERINE MCCARTHY

# **EXHIBIT A**

## MARY (KATIE) MCCARTHY

### EDUCATION

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#### HARVARD LAW SCHOOL

*J.D., magna cum laude*, May 2015

Honors: Finalist & Oralist, Upper-Level Ames Moot Court Competition  
Dean's Scholar Prize in Legislation & Regulation, Criminal Law,  
Legal Research & Writing, Family Law, and the Criminal Justice Institute  
Best Appellant Brief, 1L Ames Moot Court Competition  
James Vorenberg Equal Justice Summer Fellowship (Summers 2013 & 2014)

Publications: *Developments in the Law — Policing*, 128 HARV. L. REV. 1794 (2015).  
*Recent Case — In re Morgan*, 127 HARV. L. REV. 1252 (2014).

Activities: *Harvard Law Review*, Executive Editor  
Professors John Manning & Carol Steiker, Research Assistant  
Prison Legal Assistance Project, Executive Board Member  
Harvard Defenders, Student Attorney

#### UNIVERSITY OF PENNSYLVANIA

*B.A., summa cum laude* in Anthropology & Political Science, May 2011

Honors: Phi Beta Kappa  
Pi Sigma Alpha (Political Science Honor Society)

Thesis: *Women's Participation in Peacekeeping: A Missing Piece of the Puzzle*

Activities: Pre-Law Women at Penn, Co-Founder and Vice President  
West Philadelphia Tutoring Project, Tutor  
Alternate Spring Break Service Trip Leader (New Orleans, LA & Franklin, WV)

Study Abroad: Columbia University, Beijing, China, Summer 2008

### EXPERIENCE

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#### NEUFELD SCHECK & BRUSTIN LLP, New York, NY

2017 – present

*Associate (former Cochran Fellow)*

Represent individuals in their § 1983 federal civil rights cases involving wrongful convictions, excessive use of force by law enforcement, and sexual abuse by corrections officers. Work closely with clients to develop case theory, draft complaints, and run day-to-day discovery. Argue dispositive motions, including successfully opposing a motion to dismiss by the Orleans Parish District Attorney in Louisiana and arguing appeal against the Indiana County District Attorney in the Third Circuit Court of Appeals. Conduct depositions of defendant officers and fact witnesses and defend client depositions.

#### U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

2016 – 2017

*Law Clerk to the Honorable Jesse M. Furman*

Responsible for management of one-third of active district court docket. Drafted opinions and orders on dispositive motions in civil cases, including a 200-page opinion in the General Motors Multi-District Litigation. Analyzed issues in areas of law including constitutional law, civil rights, and employment law. Assisted with a criminal trial.

#### U.S. COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

2015 – 2016

*Law Clerk to the Honorable Janice Rogers Brown*

Wrote bench memoranda in preparation for appellate arguments. Analyzed legal issues in constitutional law, criminal law, administrative law, and civil rights law. Drafted precedential opinions.

#### THE CRIMINAL JUSTICE INSTITUTE

Fall 2014 – Spring 2015

*Student Attorney*

Represented clients in arraignments and pre-trial hearings, argued bail motions, conducted investigations, maintained running case files. Wrote and argued two motions to suppress, including an expert direct and cross-examination of several police officers. Successfully argued a motion to dismiss pre-arraignment in a juvenile case. Negotiated plea offers with prosecutors.

**THE PUBLIC DEFENDER SERVICE FOR THE DISTRICT OF COLUMBIA**

Summer 2014

*Summer Intern*

Drafted pretrial motions and requests for discovery; interviewed clients and drafted sentencing letters on their behalf; conducted legal research and wrote memoranda on criminal procedure and evidentiary issues.

**HARVARD IMMIGRATION AND REFUGEE CLINIC, Cambridge, MA**

Fall 2013

*Student Attorney*

Successfully represented a Ugandan client in her asylum hearing before an immigration judge: prepared the filing, presented opening argument, and conducted client's direct examination. Met biweekly with another Ugandan client, drafted her affidavit, collected corroborating documentation, and conducted legal research.

**THE CAPITAL APPEALS PROJECT, New Orleans, LA**

Summer 2013

*Summer Intern*

Drafted motion *in limine*, Rule 37(b) motion, discovery requests, and joint stipulations in preparation for a federal civil trial over the extreme heat conditions on Angola Prison's death row. Created deposition outlines, attended depositions, assisted at trial, and testified as a summary witness regarding the temperature data collected from the death row tiers. Strategized, prepared for, and participated in an eight-day evidentiary hearing on a client's post-conviction claims. Researched and wrote memoranda on expert witness qualification, ineffective assistance of counsel, and judicial bias.

**ADDITIONAL INFORMATION**

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Bar Admissions: New York (admitted Feb. 2018)

Court Admissions: New York State; SDNY; EDNY; Court of Appeals for the Third and Ninth Circuits

Interests: scuba diving, dog rescue, avid reader of fiction, currently taking Spanish lessons (conversational)

# **EXHIBIT B**



**ALL HOURS**

<b>Date</b>	<b>Person</b>	<b>Client</b>	<b>Activity</b>	<b>Description</b>	<b>Duration</b>	<b>Time Totals</b>
8-Mar-21	Katie McCarthy	Rosario (Richard)	Draft	Motion to exclude defs' psych experts citecheck	0:54	0.9
8-Mar-21	Katie McCarthy	Rosario (Richard)	Review	Review of Defendants' Daubert motions	0:48	0.8
9-Mar-21	Katie McCarthy	Rosario (Richard)	Meeting	motion	0:24	0.4
13-Mar-21	Katie McCarthy	Rosario (Richard)	Draft	Dysert Daubert response draft	2:06	2.1
15-Mar-21	Katie McCarthy	Rosario (Richard)	Draft	Dysart MIL opp draft	3:30	3.5
16-Mar-21	Katie McCarthy	Rosario (Richard)	Draft	Dysart MIL opp draft	4:06	4.1
16-Mar-21	Katie McCarthy	Rosario (Richard)	Phone Call	Phone call with Anna on Rosario MIL questions and framing	0:30	0.5
17-Mar-21	Katie McCarthy	Rosario (Richard)	Draft	Dysart MIL opp draft	2:06	2.1
17-Mar-21	Katie McCarthy	Rosario (Richard)	Phone Call	Call with Anna on Rosario motion	0:06	0.1
18-Mar-21	Katie McCarthy	Rosario (Richard)	Draft	Dysart MIL opp draft	3:24	3.4
21-Mar-21	Katie McCarthy	Rosario (Richard)	Filing	Rosario Daubert Opp citecheck	0:30	0.5

<b>Total</b>	<b>18.4</b>
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